

Department of Conservation and Natural Resources
State Lands Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Conservation and Natural Resources

RULE NO. & TITLE: 220-4-.09 Placement and Configuration of Piers and Other Improvements on State Submerged Lands.

INTENDED ACTION: Amend.

SUBSTANCE OF PROPOSED ACTION: To provide that renewals will be made under the current fee schedule. To clarify that any structures constructed after 2003, any structures that are substantially modified, altered or rebuilt, and any expansion of an existing activity shall be subject to the provisions of this rule. To define what substantially modified, altered or rebuilt means for purposes of that paragraph. To define "Commercial Facility" and "Department." To update the definitions of "Division," "Marina," "Ownership Oriented Facility," "Preempted Area," and "State Owned Submerged Lands." To update when compensation is required to be paid to the State Lands Division (Division) and how it's calculated. To update requirements for approval of reclamation activities and the information that the Department of Conservation and Natural Resources (Department) may consider when reviewing a request for approval of a proposed reclamation activity and establishing the timeframe to reclaim upland property at 5 years. To clarify what constitutes severance of materials. To clarify that a minimum setback of 10 feet from the riparian lines of adjacent property owners shall be required except as otherwise provided. To establish that setbacks from natural resources may also be required to ensure safety, facilitate enforcement abilities, or ensure resource management. To clarify that submission of a survey may be required in certain situations to ensure compliance with the provisions of this Rule, as determined by the Division and that the costs of the survey will be the responsibility of the riparian owner. To clarify that as binding determinations of riparian boundaries can only be made by agreement of affected parties or final court ruling, the acceptance of a survey and/or issuance of a lease or Easement does not prevent the Department from later requiring the removal or the relocation of any structure that may later be determined to encroach upon or interfere with adjacent upland owners' Riparian Rights or otherwise not be in compliance with this Rule. To update the standards and criteria for placement of structures or improvements on State Owned Submerged Lands. To update the forms of approval for placement of structures or improvements on State Owned Submerged Lands. To add that Consent of Use may be granted without payment to the Department for residential structures that preempt an area less than 5,000 square feet and for Ownership Oriented Facilities which preempt an area less than 5,000 sq. ft. and for reclamation projects approved in writing by the Department. To clarify that all final reclamation documents are to be recorded in the applicable county. To establish a \$100 administrative fee for all Request to Impact State Owned Submerged Lands applications. To clarify when a riparian Easement, Dredge Permit, and a Shellfish Aquaculture Easement are required and to add that those forms may be obtained by contacting the Division by phone or email. To update the fee formula for riparian Easements and proration of such fee for initial annual fee payments under new riparian Easements. To clarify that the easement grantee shall

provide Division, upon request, any and all information in a certified form needed to calculate the Easement fee and to give some examples of what information may be requested. To modify the formula for calculating appraisal-based fees. To update minimum annual fees. To reduce late payment fees. To establish a fee formula for Dredge Permits and method of calculating Per Unit Fees, and to establish a minimum fee for Dredge Permits. To clarify that the Per Unit Fee or minimum fee is due prior to issuance of the Dredge Permit.

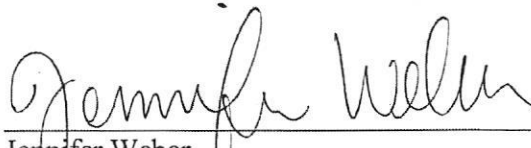
TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Director of State Lands Division at any time during the period stated below, or orally if requested in writing 48 hours in advance to the Director of State Lands Division, and then by personally appearing at Room 474, Folsom Administrative Building, 64 North Union Street, Montgomery, Alabama, at 10:00 a.m., Friday, May 6, 2022.

If ADA accommodations are needed, please contact Daisy Perry at (334) 242-3165 or daisy.perry@dcnr.alabama.gov. Requests should be made as soon as possible but at least seven days prior to the date of a personal appearance to present views regarding the proposed rules.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Friday, May 6, 2022.

CONTACT PERSON AT AGENCY: Patricia Powell McCurdy, Director, State Lands Division, 4th Floor, 64 N. Union Street, Montgomery, Alabama 36130, 334-242-3484.


Jennifer Weber
Secretary of Administrative Procedure